

9/6/2018 4:44 PM
Chris Daniel - District Clerk Harris County
Envelope No. 27321120
By: Nelson Cuero
Filed: 9/6/2018 4:44 PM

2018-60699 / Court: 234

Cause No. _____

GLOBAL ENVIRONMENTAL
SOLUTIONS, INC.

Plaintiff

vs.

ROBERT L. JOHNSTON and SHANE
JOHNSTON

Defendants

§ In The District Court of
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§
§
§ Harris County, Texas
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§

PLAINTIFF'S ORIGINAL PETITION
AND REQUEST FOR DISCLOSURE

Comes now Plaintiff Global Environmental Solutions, Inc., which files this Original Petition against Defendants Robert I. Johnston and Shane Johnston asserting the causes of action detailed below:

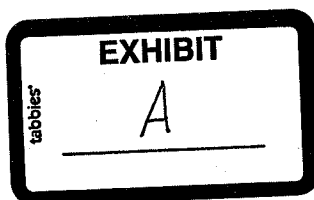
I. Parties

1. Global Environmental Solutions, Inc. ("GES") doing business as Global Energy Solutions, is a Maine Corporation with its principal place of business at 707 Sable Oaks Dr #150, South Portland, ME 04106.

2. Robert I. Johnston is an individual who may be served with process at his place of business located at 3535 Briarpark Drive, Suite 135, Houston, Texas 77042.

3. Shane Johnston is an individual who may be served with process at his place of business located at 3535 Briarpark Drive, Suite 135, Houston, Texas 77042.

Certified Document Number: 81589959 - Page 1 of 6



II. Jurisdiction and Venue

4. This Court has jurisdiction over the subject matter of this lawsuit as the amount in controversy exceeds the minimum jurisdictional requirements.

5. Venue is proper in Harris County, Texas, in that a substantial part of the act and omissions at issue in this matter took place in Harris County.

III. Discovery Control Plan

6. For purposes of Rule 190.1, Plaintiff alleges that this matter will involve matters making a Level 2 discovery plan appropriate. Plaintiff reserves the right to request entry of an order establishing a Level 3 discovery control plan.

7. Plaintiff seeks monetary relief over \$1,000,000.

IV. Facts

8. GES is in the business of providing services related to pipeline construction.

9. Robert I. Johnston and Shane Johnston are construction managers for Associated Pipe Line Contractors, Inc. ("Associated").

10. In particular, both Robert I. Johnston and Shane Johnston have responsibilities relating to the clearing and preparation of pipeline rights-of-way, which is one of the businesses in which GES engages.

11. GES became interested in purchasing Associated in 2014.

12. GES expressed interest in purchasing Associated as an effort to expand the business of GES.

13. As discussions ensued, GES obtained two Subcontract Agreements from Associated for clearing rights-of-way on what were known as the "Leach Xpress Project - East" and the "Leach Xpress Project - West."

14. GES obtained both Subcontract Agreements through negotiations with Paul Somerville, the principal owner of Associated, and Shane Johnston, vice president of Associated.

15. The Subcontract Agreements were managed, however, by Robert I. Johnston and Shane Johnston on behalf of Associated.

16. GES learned after executing the Subcontract Agreements that Robert I. Johnston and Shane Johnston were also negotiating with Paul Somerville to purchase and control Associated, either on their own behalf or through an Employee Stock Option Program.

17. GES continued to express interest in purchasing Associated as certain timelines under the Subcontract Agreements approached.

18. One milestone on those timelines was the Notice of Intent to Proceed with the work under the Subcontract Agreements, which Associated had committed to give no later than November 1, 2016.

19. The purpose of this milestone was to give GES time to mobilize personnel and equipment in an orderly fashion to achieve the contractual deadlines for substantial completion.

20. Robert I. Johnston and Shane Johnston were in control of when the Notice of Intent to Proceed was given.

21. One of the contractual deadlines was for "hand felling," and that deadline was March 31, 2017.

22. GES could not begin work to achieve that deadline until it had been given the Notice of Intent to Proceed.

23. Through Robert I. Johnston and Shane Johnston, Associated delayed the Notice of Intent to Proceed until February 14, 2017, giving GES only six weeks to reach the contractual deadline rather than the twenty-five weeks contemplated by the Subcontract Agreements.

24. Associated offered no relief from the deadline for substantial completion of the hand felling work.

25. Mindful of its relationship with the principal owner of Associated, and still vying to purchase that company, GES nonetheless mobilized and substantially completed the hand felling in accordance with the contracted-for deadline with the help of other Associated-hired felling subcontractors.

26. While the work continued, GES continued to encounter unexplained difficulties with Associated.

27. In response to a minor incident on part of the project, for example, Associated demanded a face-to-face meeting, threatened termination, and barred project access of an entire GES-provided crew from the project (while later allowing some of the very same individuals to work on the project through other subcontractors).

28. Again mindful of its relationship with the principal owner and still seeking to negotiate a purchase, GES mobilized an extensive response to address all of the concerns expressed by certain management within Associated.

29. Nonetheless, just as GES completed the hand-felling stage of the work with other subcontractors mobilized by Associated as a result of the accelerated schedule and challenges presented by Associated (within the deadline), Associated sent two letters terminating the Subcontract Agreements.

30. The letters stated the termination was “for cause” when in fact it was “for convenience.”

31. Based on that determination, which was controlled within Associated by Robert I. Johnston and Shane Johnston, Associated has refused to pay the appropriate amounts for the termination under the Subcontract Agreements.

V. Cause of Action: Tortious Interference with Contract

32. Both Robert I. Johnston and Shane Johnston were aware of the contractual relationship between GES and Associated.

33. Both Robert I. Johnston and Shane Johnston interfered with the relationship and made performance of the contractual relationships more burdensome.

34. In particular, each deliberately delayed notices under the Subcontract Agreements, and each caused those Subcontract Agreements to be terminated under the false pretense of “for cause” when in fact each did so for their own personal reasons.

35. Each was motivated in these actions by a desire to prevent GES from purchasing Associated.

36. As a direct and proximate result of the interference, GES has been damaged in the amount of \$10,402,962.

VI. Jury Demand

37. Plaintiff demands a jury trial.

VII. Request for Disclosure

38. Pursuant to Texas Rule of Civil Procedure, Plaintiff request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

VIII. Prayer

For the reasons stated, Plaintiff asks that Defendants be cited to appear and answer and on final trial that Plaintiff be awarded judgment against Defendants for the following:

Actual Damages,
Prejudgment and post-judgment interest,
All costs of Court, and
All other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

LISKOW & LEWIS

By: /s/ Paul Matthew Jones

Paul Matthew Jones
Texas Bar No. 03965500
Jillian M. Marullo
Texas Bar No. 24080504
Hilary C. Soileau
Texas Bar No. 24106452
1001 Fannin Street, Suite 1800
Houston, Texas 77002
Telephone: 713-651-2900
Facsimile: 713-651-2908
E-mail: mjones@liskow.com
E-mail: jmmarullo@liskow.com
E-mail: hcsouileau@liskow.com

Attorneys for Global Energy Solutions, Inc.

9/19/2018 3:50 PM
 Chris Daniel - District Clerk Harris County
 Envelope No. 27649705
 By: SASHA PRINCE
 Filed: 9/19/2018 3:50 PM

CAUSE NO. 201860599

RECEIPT NO.

0.00

ATY

TR # 73535036

PLAINTIFF: GLOBAL ENVIRONMENTAL SOLUTIONS INC
 vs.
 DEFENDANT: JOHNSTON, ROBERT J

In The 234th
 Judicial District Court
 of Harris County, Texas
 234TH DISTRICT COURT
 Houston, TX

CITATION

THE STATE OF TEXAS
 County of Harris

TO: JOHNSTON, ROBERT J

3535 BRIARPARK DRIVE SUITE 125 HOUSTON TX 77042

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 6th day of September, 2018, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may, employ an attorney. If you or your attorney do not file a written answer with the District Clerk and issued this citation by 10:00 a.m. on the Monday next following the expiration of 30 days after you were served this citation and petition, a default judgment may be taken against you.

BY OFFICER SERVING:

This citation was issued on 12th day of September, 2018, under my hand and seal of said Court.

LEAH M. FERGUSON
 CLERK, MICHAEL V.
 1801 FANNIN, SUITE 860
 HOUSTON, TX 77002
 Tel: (713) 651-2319
 FAX: 651-2319



Chris Daniel

CHRIS DANIEL, District Clerk
 Harris County, Texas
 201 Caroline, Houston, Texas 77002
 (P.O. Box 4651, Houston, Texas 77210)

Generated By: RAMMY, MERCEDES MATAGHA
 2Y17/11018336

OFFICER/AUTHORIZED PERSON RETURN

Time to hand at _____ o'clock _____ M., on the _____ day of _____

Executed at (address) _____ in _____

County of _____ o'clock _____ M., on the _____ day of _____

by delivering to _____ defendant, in person, a

true copy of this citation together with the accompanying _____ (copies) of the Petition

attached thereto and I enclosed on said copy of the citation the date of delivery.

To certify which I affix my name officially this _____ day of _____

FEE: \$ _____

_____ of _____ County, Texas

By _____ Deputy
 Affiant

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____

Notary Public

E-FILED

73535036

AFFIDAVIT OF SERVICE

Cause No. 2018-60699

In The District Court of Harris County, Texas
234th Judicial District

GLOBAL ENVIRONMENTAL
SOLUTIONS, INC.
Plaintiff

VS.

ROBERT I. JOHNSTON and SHANE
JOHNSTON
Defendants

Came to hand on September 13, 2018, at 12:10 p.m.

Executed at 3535 Briarpark Drive, Suite 135, Houston, Texas 77042, within the County of Harris at 10:22 a.m. on September 17, 2018, by delivering to the within named:

ROBERT I. JOHNSTON, in person, delivered a true copy of this Citation with Plaintiff's Original Petition and Request for Disclosure, with the date of delivery endorsed thereon by me and informed said person of the contents therein, in compliance with state statutes.

I certify that I am approved by the Supreme Court of Texas, Misc. Docket No. 05-9122 under rule 103, 501 and 501.2 of the TRCP to deliver citations and other notices from any District, County, and Justice Courts in and for the State of Texas. I am competent to make this oath; I am not less than 18 years of age, I am not a party to the above-referenced cause, I have not been convicted of a felony or a crime involving moral turpitude, and I am not interested in the outcome of the above-referenced cause.

By: 

David A. Garza
Republic Services
4202 Sherwood, Houston, Texas 77092
713.957.0094

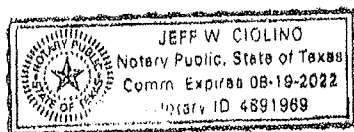
DAVID A. GARZA
Authorized Private Process Server
TEXAS SERVER LIC# PSC-502
EXPIRES: 7-31-2020

VERIFICATION

STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, A NOTARY PUBLIC, on this day personally appeared David A. Garza, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office on this 9/19/2018




NOTARY PUBLIC, STATE OF TEXAS

9/19/2018 3:46 PM
Chris Daniel - District Clerk Harris County
Envelope No. 27648757
By: SASHA PRINCE
Filed: 9/19/2018 3:46 PM

CAUSE NO. 201860899

RECEIPT NO.

0.00

ATY

TR # 73535041

PLAINTIFF: GLOBAL ENVIRONMENTAL SOLUTIONS INC

In The 234th
Judicial District Court
of Harris County, Texas
Civil District Court
Houston, TX

DEFENDANT: JOHNSON, SHANE

CITATION

FOR DEPT. OF TEXAS
County of Harris

TO: JOHNSON, SHANE
3555 BRIARPARK DRIVE SUITE 135 HOUSTON TX 77042

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 6th day of September, 2018, in the above cited cause number and name. The instrument attached describes the claim against you.

YOU HAVE BEEN SERVED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 12th day of September, 2018, under my hand and seal of said County.

Learned all counsel met
JONES, PAUL MATTHEW
1501 FANNIE STREET SUITE 1000
HOUSTON, TX 77002
Tel: (713) 641-7900
Att. No: 10335000



Chris Daniel

CHRIS DANIEL, District Clerk
Harris County, Texas
701 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: RAMEY, MERCEDES MATASHA
2917/11038338

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ M., on the _____ day of _____

(executed at (address)) _____

_____ County at _____ o'clock _____ M., on the _____ day of _____

_____ by delivered to _____ defendant, in person, a

true copy of this citation together with the accompanying _____ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the citation the date of delivery.
To certify which I affix my hand and seal this _____ day of _____

OK, \$ _____

_____ of _____ County, Texas

Affiant _____

By _____ Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

WORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____

Notary Public

73535041

AFFIDAVIT OF SERVICE

Cause No. 2018-60699

In The District Court of Harris County, Texas
234th Judicial District

GLOBAL ENVIRONMENTAL
SOLUTIONS, INC.
Plaintiff

VS.

ROBERT I. JOHNSTON and SHANE
JOHNSTON
Defendants

Came to hand on September 13, 2018, at 12:10 p.m.

Executed at 3535 Briarpark Drive, Suite 135, Houston, Texas 77042, within the County of Harris at 2:58 p.m. on September 14, 2018, by delivering to the within named:

SHANE JOHNSTON, in person, delivered a true copy of this Citation with Plaintiff's Original Petition and Request for Disclosure, with the date of delivery endorsed thereon by me and informed said person of the contents therein, in compliance with state statutes.

I certify that I am approved by the Supreme Court of Texas, Misc. Docket No. 05-9122 under rule 103, 501 and 501.2 of the TRCP to deliver citations and other notices from any District, County, and Justice Courts in and for the State of Texas. I am competent to make this oath; I am not less than 18 years of age, I am not a party to the above-referenced cause, I have not been convicted of a felony or a crime involving moral turpitude, and I am not interested in the outcome of the above-referenced cause.

By: David A. Garza

David A. Garza
Republic Services
4202 Sherwood, Houston, Texas 77092
713.957.0094

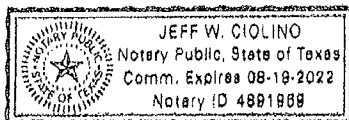
DAVID A. GARZA
Authorized Private Process Server
TEXAS SERVER LIC# PSC-502
EXPIRES: 7-31-2020

VERIFICATION

STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, A NOTARY PUBLIC, on this day personally appeared David A. Garza, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office on this 9/19/2018



Jeff W. Ciolino
NOTARY PUBLIC, STATE OF TEXAS